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EXAMINER
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte DANIELA FERTL, FRITJOF KAISER, and INES STEINKE

Appeal 2017-000068
Application 13/879,461
Technology Center 2600

Before ELENI MANTIS MERCADER, NORMAN H. BEAMER, and ADAM J. PYONIN, *Administrative Patent Judges*.

PYONIN, *Administrative Patent Judge*.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134(a) from the Examiner's Final Rejection of claims 15 and 18–31, which constitute all the claims pending in this application. *See* App. Br. 1. We have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE.

STATEMENT OF THE CASE

Introduction

Appellants' disclosure relates to an appliance, such as a watch or mobile phone, "with an operating unit in which a mechanically-actuatable operating element can be very well protected against unwanted triggering of a pre-determined action" in which "sensing of skin contact ensures that the actuation element is not inadvertently actuated with other objects." Spec. ¶¶ 5, 7.

Claim 15 is the sole independent claim, and is reproduced below for reference:

> 15. An appliance with an operating unit, comprising:
>
> an actuation element to trigger a pre-determined action, the actuation element being actuated by mechanical force of a user on the actuation element; and
>
> a touch-sensitive sensor provided for the actuation unit, to detect skin contact which occurs as a result of the mechanical force on the actuation element,
>
> wherein the appliance triggers the pre-determined action only if the actuation element has been actuated by the mechanical force of the user and the touch-sensitive sensor has detected skin contact during actuation of the actuation element, wherein
>
> the actuation element comprises a switch and/or button element with an actuation surface on which the mechanical force is exerted during actuation of the actuation element,
>
> the touch-sensitive sensor is integrated into the actuation surface such that the touch-sensitive sensor detects skin contact with the actuation surface,
>
> the switch and/or button element is actuated by pressure and/or tension, and
>
> the switch and/or button element comprises a pushbutton.

The Examiner's References and Rejections

Claims 15, 18, 19, 22–25, and 27–29 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Lyons (US 2009/0059730 A1; Mar. 5, 2009). Final Act. 3.

Claims 20 and 21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Lyons and Born (US 7,031,228 B2; Apr. 18, 2006). Final Act. 9.

Claims 26 and 30 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Lyons and Hennings-Kampa (US 8,059,491 B1; Nov. 15, 2011). Final Act. 10.

Claim 31 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Lyons and Tran (US 2008/0001735 A1; Jan. 3, 2008). Final Act. 12.

ANALYSIS

Appellants argue the Examiner erred in the rejection of claim 15, because "Lyons does not distinguish skin contact from other types of contact," and therefore "Lyons does not teach the claimed features of 'the appliance triggers the pre-determined action only if the actuation element has been actuated by the mechanical force of the user and the touch-sensitive sensor has detected skin contact during actuation of the actuation element.'" App. Br. 11–12. Particularly, Appellants contend "Lyons does not teach the feature that an action is triggered only when skin contact is detected. Rather, Lyons merely teaches to actuate a function upon detection of a capacitance." Reply Br. 5 (emphases omitted).

We are persuaded by Appellants' argument. As cited by the Examiner (*see* Final Act. 4), Lyons discloses the following:

> [w]hen a user touches the bezel **114** with his or her fingertip *(or other conductive object)* the electric field around one or more of the sensor pads **122** is changed. The integrated circuit **124** detects changes in capacitance on the pads **122** and outputs the position of the finger on the bezel **114** as detected by the sensor **118**.

Lyons ¶ 26 (emphasis added). Thus, in the appliance disclosed by Lyons, a conductive object *other* than the skin contact of a fingertip pressing on bezel 114 would be treated in the same manner as a fingertip touch. In contrast, Claim 15 requires that "the appliance triggers the pre-determined action *only if* the actuation element has been actuated by the mechanical force of the user and the *touch-sensitive sensor has detected skin contact* during actuation of the actuation element" (emphasis added). Lyons is not encompassed by the claim language, because Lyons will trigger an action without the detection of skin contact (i.e., Lyons will trigger the action upon the touch of any conductive object).

Thus, we find Lyons does not disclose all limitations recited by independent claim 15. We do not sustain the rejection of independent claim 15, and the rejections of the claims that depend therefrom.

DECISION

The Examiner's rejections of claims 15 and 18–31 are reversed.

REVERSED